## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

STEADFAST INSURANCE COMPANY,	)
Plaintiff,	)
v. MOTIV SPORTS HOLDINGS, INC.,	) Case No.: 06-5073-CV-SW-GAF
and	)
DAVID ADAM COOPER,	)
Defendants.	)

## ORDER GRANTING DEFAULT JUDGMENT

The Court, having reviewed Plaintiff Steadfast Insurance Company's Motion for Default Judgment against Motiv Sports Holdings, Inc., and being fully advised in the premises, hereby finds as follows:

- 1. On July 12, 2006, Plaintiff filed a Complaint in this action seeking judgment declaring that Plaintiff has no duty to defend or to indemnify Motiv Sports in the Underlying case captioned David Adam Cooper v. Sam's Club East, Inc., Craig Daniel and Motiv Sports Holdings, Inc., Case No. 302-521CC now pending in the Circuit Court of Newton County, Missouri (the "Underlying Lawsuit").
  - 2. Defendant Motiv Sports was properly served in accordance with Fed.R.Civ.P. 4(h).
- 3. Defendant Motiv Sports has failed to answer as required by Fed.R.Civ.P. 12, and no appearance has been made on behalf of Defendant.
- 4. A default judgment against Defendant Motiv Sports is proper pursuant to Fed.R.Civ.P. 55.
  - 5. Defendant Cooper has already been dismissed.

Specifically, the Court finds that:

- a. The name of the party to whom the Judgment is to be granted is Steadfast Insurance Company.
  - b. The name of the party against whom judgment is being taken is Motiv Sports

Holdings, Inc.

- c. Venue is proper in this Court pursuant to 28 U.S.C. §1391(a)(2).
- d. Plaintiff is entitled to a declaratory judgment finding that it had no duty to defend or indemnify Motiv Sports in the Underlying Lawsuit.
- e. Plaintiff is entitled to an award of its costs incurred in the defense of the Underlying Lawsuit in the amount of \$51,684.59.
- f. Plaintiff is entitled to an award of its costs expended in settling the Underlying Lawsuit on behalf of Motiv Sports in the amount of \$475,000.
- g. Plaintiff is entitled to prejudgment interest at the rate of 9%. Plaintiff paid the settlement amount of \$475,000 on August 10, 2006. Interest has accrued on that figure in the amount of \$15,307.35 through December 19, 2006 (the day before the last invoice for defense costs was paid by plaintiff). Interest has accrued on the total of the defense costs (\$51,684.59) plus the settlement amount (\$475,000) from December 20, 2006 through the date of this filing in the amount of \$5,311.96. The total of interest accrued through the date of this filing is \$20,619.31, and interest continues to accrue on the total amount expended by plaintiff in the Underlying Lawsuit of \$526,684.59 at the daily rate of \$129.56.
- h. Plaintiff is entitled to an award of its costs in bringing this declaratory judgment action.
  - i. This judgment shall be a final judgment against Defendant.
- 6. The requirements for the entry of a default and default judgment, as set forth in Fed.R.Civ.P. 55 and 58, have been satisfied.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

- 1. A default judgment is hereby entered in favor of Steadfast Insurance Company and against Motiv Sports Holdings, Inc. pursuant to Fed.R.Civ.P. 55.
- 2. As no defense, motion or other answer was filed by Motiv Sports, this Court further grants judgment against Motiv Sports, Inc. and in favor of Plaintiff Steadfast Insurance Company in the declaratory judgment action brought herein, and finds that Plaintiff Steadfast Insurance

Company had no duty to defend or indemnify Motiv Sports in the Underlying Lawsuit.

3. This Court finds that Plaintiff is entitled to an award of:

its costs incurred in the defense of the Underlying Lawsuit in the amount a.

of \$51,684.59;

b. its costs incurred in settling the Underlying Lawsuit on behalf of Motiv

Sports in the amount of \$475,000;

c. prejudgment interest at the rate of 9%. Plaintiff paid the settlement amount

of \$475,000 on August 10, 2006. Interest has accrued on that figure in the amount of

\$15,307.35 through December 19, 2006 (the day before the last invoice for defense costs was

paid by plaintiff). Interest has accrued on the total of the defense costs (\$51,684.59) plus the

settlement amount (\$475,000) from December 20, 2006 through the date of this filing in the

amount of \$5,311.96. The total of interest accrued through the date of this filing is

\$20,619.31, and interest continues to accrue on the total amount expended by plaintiff in the

Underlying Lawsuit of \$526,684.59 at the daily rate of \$129.56.

d. its costs associated with bringing this declaratory judgment action.

4. This judgment shall be a final judgment pursuant to Fed.R.Civ.P. 55 and 58.

GARÝ A. FENNER. JUDGE

UNITED STATES DISTRICT COURT

DATED: March 13, 2007